

REMARKS

Claims 28-55 have been examined in this application. Claims 28, 29, 34 and 40 have been amended herein and new claims 56-82 have been added. Reconsideration and allowance of claims 28-82 is respectfully requested.

Claims 28-55 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, claim 28 is said to recite a second "a tissue contact surface" which is not properly distinguished from the "a tissue contact surface" in line 6. In response, the applicants respectfully traverse the rejection. There are indeed two tissue contact surfaces, one on the ablation device and one on the sensor device. The applicants believe that the claims are entirely clear regarding which "tissue contact surface" is on which device. However, in order to advance the prosecution of the application, the applicants have amended the claims wherever these terms appear. The reference is now to either "ablation tissue contact surface" or to "sensor tissue contact surface." Reconsideration and allowance of claims 28-55, as amended, is respectfully requested.

Claims 28-55 have been rejected under 35 USC 103(a) as being unpatentable over Cox et al. '543. In response, the applicants respectfully traverse the rejection. The examiner has pointed to Figure 36 of Cox as showing an ablation device positioned along a tissue contact surface and a sensor device positioned along a tissue contact surface. Further, that in Figure 43 of Cox, an embodiment is shown that includes suction openings to ensure intimate contact between the ablating surface and the tissue. The examiner asserts that it would have been obvious to provide suction openings on the embodiment of Figure 36 to ensure intimate contact between the ablating surface and tissue. The applicants disagree that this combination would have been obvious to one skilled

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in the art and also believe that the combination does not make the applicants' invention.

Figure 36 of Cox shows a right-angle clamp type probe in which an outer clamping portion cooperates with a right angle probe or inner clamping portion. The outer and inner jaw portions move to clamp the heart wall therebetween. Therefore, the intent in this embodiment is to provide contact with the tissue to be ablated by clamping the tissue mechanically. By contrast, Figure 43 of Cox depicts another probe that includes suction ports for ensuring intimate contact between the ablating surface and the tissue. These two embodiments therefore reflect alternative means for achieving intimate contact between the ablating surface and the tissue. The person skilled in the art would recognize that the addition of suction to the ablating element of Figure 36 would be superfluous for achieving intimate contact with the tissue to be ablated since the ablating surface is already mechanically clamped to the tissue. The addition of suction would provide no benefit, only expense. Therefore, the combination of features from the two drawing figures as asserted by the examiner would not have been obviously made by one skilled in the art.

Even if the elements of the figures 36 and 43 are combined as the examiner suggests, the applicants' invention, as claimed, is not the result of that combination. Figure 43 of the Cox reference discloses suction ports on the ablating surface of the ablation probe. However, in applicants' independent claim 28, the suction openings are positioned along the contact surface of the sensor device, not the ablation device. There is no teaching or suggestion in Cox to place the suction ports on the sensor as claimed by the applicants. Therefore, the applicants' claims are believed to be patentable over the teachings of Cox. Reconsideration and withdrawal of the rejection under 35 USC 103(a) is respectfully requested.

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An invention disclosure statement accompanies this response. Attached please find Appendix A version with markings to show changes made.

Respectfully submitted,

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Appendix A

28. (amended) An ablation system for creating a tissue ablation site, the system comprising:

an energy source;

an ablation device operatively coupled to the energy source, the ablation device comprising one or more energy transfer elements positioned along [a] an ablation tissue contact surface of the ablation device; and

a sensor device operatively coupled to the energy source, the sensor device including a sensor adapted to sense a temperature parameter relating to the tissue ablation site, the sensor device having a sensor tissue contact surface,

one or more suction openings positioned along the sensor tissue contact surface of the sensor device, and a suction conduit for providing suction from a suction source to the one or more suction openings, the suction conduit being operatively connected with the one or more suction openings.

29. (amended) The system of claim 28 wherein the ablation device further comprises one or more suction openings positioned along the ablation tissue contact surface and a suction conduit for providing suction from a suction source to the one or more suction openings, the suction conduit operatively connected with the one or more suction openings.

34. (amended) The system of claim 28 wherein the ablation device further comprises a maneuvering apparatus operatively connected with the ablation tissue contact surface of the ablation device for maneuvering the energy transfer element.

40. (amended) The system of claim 28 wherein the sensor device further comprises a maneuvering apparatus operatively connected with the sensor tissue contact surface of the sensor device for maneuvering the sensor.

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